

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
ST. JOSEPH DIVISION**

JET MIDWEST INTERNATIONAL CO., LTD.,)
)
Plaintiff,)
)
v.)
)
JET MIDWEST GROUP, LLC, ET AL.,)
)
Defendants.)
_____)
)
PMC AVIATION 2012-1, LLC)
)
Intervenor Defendant)
)
v.)
)
JET MIDWEST, INC. ET AL.,)
)
)

Case No. 18-cv-06019-FJG

SECOND AMENDED SCHEDULING AND TRIAL ORDER

1. TIMELINESS OF SUBMISSIONS

The parties and counsel are advised that any filing or submission made after 5:00 p.m. will not be reviewed by the Court until the next business day.

2. PROTECTIVE ORDERS

Counsel are advised that protective orders shall be issued upon motion of counsel only. This motion shall be filed with the proposed protective order provided as an attachment to the document. The proposed protective order shall also be emailed to the courtroom deputy in Word format at christy_anderson@mow.uscourts.gov.

In the event that the parties are unsuccessful in reaching an agreement on

a proposed protective order, the Court refers the parties to the Manual for Complex Litigation, Fourth § 40.27 for a sample protective order. Issues subject to protective orders under Fed. R. Civ. P. 26 (c)(5) must be raised by written motion prior to the scheduling of the pertinent depositions citing the “good cause” in specific detail.

3. INDICES

Counsel should note that the scheduling and trial order indices are provided for their convenience only. **All parties are directed to review the entire text of this order.** The schedules fixed herein will not be extended except for good cause shown and upon further written order of the Court.

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Pursuant to Rules 16(b) and 26(f), Fed. R. Civ. P., and upon consideration of the parties' proposals in the matter, the following time schedule is established.

1. MOTION TO JOIN ADDITIONAL PARTIES or AMEND PLEADINGS

Any motion to join additional parties or amend pleadings will be filed no later than **January 24, 2019**.

2. DISCOVERY

Discovery shall close as of **July 31, 2019**. *The parties will be allowed to take the deposition of Emily White on **August 6, 2019** if necessary. **Close of discovery**

means that all discovery, including depositions, shall be completed not simply submitted on the date specified by this paragraph. Any last minute discovery submitted too late for the opposing side to timely discover may be stricken.

Counsel should also note that the Court expects discovery to proceed in a timely manner. The filing of a dispositive motion does not preclude the parties from conducting discovery.

a. The Court reserves the right to exercise control over the taking of depositions in any case. The Court may either limit the total number of depositions or place a time limitation on the taking of depositions in general. **Any proposed deposition lasting longer than seven hours requires prior approval by the Court. Proposing counsel shall file a motion explaining the justification for such deposition(s).**

b. **Any discovery motion must be filed before the close of discovery, and in sufficient time for the Court to rule the motion.** The Court will not entertain any discovery motion absent full compliance with Local Rule 37.1. Any discovery motion filed without complying with Local Rule 37.1 will be denied.

c. In the event that a teleconference is needed, please email your request to my chambers at: Christy_Anderson@mow.uscourts.gov or Marylnn_Shawver@mow.uscourts.gov. The request should include a typed description

of the discovery dispute, using a 12 pitch font and not exceeding two pages in length. The party opposing discovery shall respond within two business days. These teleconferences are intended to resolve one or two issues that do not require authoritative briefing. Where multiple and complex issues are involved, motion practice is appropriate. If you have questions regarding the appropriateness of your dispute for a teleconference, please contact Chambers.

3. SUPPLEMENT TO DISCOVERY RESPONSES

Any supplement to discovery responses under Fed.R.Civ.P. Rule 26(e), Fed. R. Civ. P. will be filed no later than ten days before the scheduled pretrial teleconference. This obligation extends to expert affidavits.

4. EXPERT TESTIMONY.

a. A party shall disclose to other parties the identity of any person who may be used at trial to present evidence under Rules 702, 703, or 705, Fed. R. Evid.

1. Standard discovery deadlines include submission of expert reports required by Rule 26(a)(2)(B), Fed. R. Civ. P., for all witnesses retained or specially employed to provide expert testimony or whose duties as the party's employee regularly involve giving expert testimony. Expert disclosures and reports shall be submitted no later than **May 31, 2019**, and rebuttal expert disclosures no later than **July 1, 2019**. These deadlines also apply to the disclosures of witnesses under Rule 26(a)(2)(C), Fed. R. Civ. P., for whom no reports are required.

2. Any Daubert motion or other challenge to a proposed expert under Rules 26(a)(2)(B) or 26(a)(2)(C) must be filed no later than **August 30, 2019**. Objections not raised by this deadline may not be raised for the first time at trial.

3. A party's expert witness will be permitted to testify at trial only in conformity with that witness's report unless otherwise ordered by the Court.

4. Any expert report or disclosure to be submitted under this section shall be filed with this Court on ECF by the deadlines provided in 7(a)(1).

5. Expert Depositions – The parties may depose expert witnesses on or before **July 31, 2019**.

b. If a witness is not required to provide a written report under Fed. R. Civ. P. 26(a)(2)(B), the party naming that witness must prepare a disclosure indicating (1) the subject matter on which the witness is expected to present evidence under Federal Rule of Evidence 702, 703, or 705; and (2) a summary of the facts and opinions to which the witness is expected to testify. Fed.R.Civ.P 26(a)(2)(C). These disclosures are due on the same dates as set forth in 7(a)(1). Daubert motions or other challenges to Rule 26(a)(2)(C) witnesses are due on the same dates as set forth in 7(a)(2).

5. MOTIONS FOR SUMMARY JUDGMENT

All motions for summary judgment shall be filed no later than **September 6, 2019**. Further, no motion for summary judgment will be entertained absent strict compliance with the following provisions:

a. Any motion for summary judgment shall fully comply with the provisions set forth in Local Rule 7.0; and

b. No deviations from Local Rule 7.0 will be allowed absent leave of Court obtained **PRIOR** to filing non-conforming documents. Unless prior Court approval is granted, motions for leave to deviate from Local Rule 7.0 that are filed contemporaneously with a non-conforming filing shall be denied.

6. OTHER MOTIONS

All other motions, except those which, under Fed.R.Civ.P. 12(h)(2) or (3), may be filed (with supporting suggestions) no later than **August 30, 2019**.

7. REQUESTS FOR ADMISSION

Requests for Admission can be served on or before **May 31, 2019**. Responses to Requests for Admission are due on or before **July 1, 2019**.

II. TRIAL

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	Pre-Trial Teleconference	November 13, 2019

1. STIPULATION OF ANY UNCONTROVERTED FACTS

A stipulation of any uncontroverted facts shall be filed no later than **August 12, 2019**. If no stipulated facts can be agreed upon, including facts related to the Court's subject matter or personal jurisdiction, the parties shall file a joint statement to that effect.

2. WITNESS LISTS

Each party shall file a witness list no later than **September 3, 2019**. The witnesses shall be listed in alphabetical order.

IN CAMERA WITNESS LISTS shall be filed simultaneously with each parties' witness list and shall include the subject matter that each witness will testify about and the exhibits each witness will identify or use; the length of time needed for direct examination of each witness; and the order in which you propose to call each witness.

You shall provide an **estimate of the amount of time it will take to cross-examine opposing parties' witnesses** within **five days** of their disclosure.

In camera submissions of witness lists **may be electronically filed under seal with leave of Court being waived.** Faxed copies of *in camera* witness lists will not be accepted. **PLEASE NOTE** that counsel may, if desired, file and serve the information detailed above instead of making a separate *in camera* submission.

3. EXHIBIT LISTS

Each party shall file an exhibit list no later than **September 3, 2019**. Each exhibit listed shall be pre-marked and numbered. If only a portion of an exhibit is to be offered, the portion to be offered shall be specifically identified. A copy of the exhibit index will be attached to the copy of the exhibit list. A **STIPULATION TO THE IDENTITY AND AUTHENTICATION OF EXHIBITS** shall be filed no later than **September 3, 2019**. If no exhibits can be stipulated to, the parties shall file a joint statement to that effect.

4. DEPOSITION DESIGNATIONS.

a. **All parties** shall file any designation by page and line number, of any deposition testimony to be offered in evidence as a part of that party's case-in-chief in connection with such claim or claims no later than **September 3, 2019**.

b. **All parties** shall file objections to proposed deposition testimony designated by any other party pursuant to subparagraph 4(a) no later than **September 10, 2019**.

c. **All parties** shall file a designation, by page and line number, of any deposition testimony to be offered as cross-examination to deposition testimony designated by other parties pursuant to subparagraph 4(a) no later than **September 10, 2019**.

d. **All parties** shall serve and file any objections to proposed deposition testimony designated by any other party pursuant to subparagraph (4)(c) no later than **September 17, 2019**.

e. **Deposition designations, objections and counterdesignations shall be properly marked (color coded) and submitted to the Court.**

5. MOTIONS IN LIMINE, TRIAL BRIEFS

All parties shall file all motions in limine with supporting suggestions no later than **November 1, 2019**. Any desired trial brief shall be filed no later than **November 1, 2019**.

6. RESPONSES TO MOTIONS IN LIMINE AND RESPONSES TO TRIAL BRIEFS

All parties shall file and serve responses to earlier filed motions in limine and responses to earlier filed trial briefs no later than **November 8, 2019**.

7. TIME LIMITS

The Court may place time limits on opening statements, and direct- and cross-examination of all witnesses. You should be prepared to support your representations as to the length of trial. (See paragraph 2 above.)

8. RULES OF COURT

In furtherance of the efficient use of judicial resources, the following rules of Court will be imposed.

a. All legal issues must be raised in advance of trial by written motions and in accordance with the scheduling order of this Court.

b. Motions will not be heard during trial without a strong showing that counsel could not, by due diligence, have raised them sooner.

c. Motions for judgment as a matter of law submitted under Rule 50 shall be filed with the Court as soon as possible but no later than the night before the anticipated completion of testimony.

d. Testimony will not be interrupted to deal with evidentiary matters that could have been heard in advance of trial. The Court will consider those matters during recess, at noon break, or at the end of the day. Counsel should be prepared with written authority for their position.

e. Witnesses who will be testifying from exhibits or about exhibits should review them immediately prior to their examination.

PLEASE NOTE that a witness not listed in accordance with this order will not be permitted to testify, except for good cause shown and with leave of Court; and that an exhibit not listed or deposition testimony not designated in accordance with this order will not be received in evidence, except for good cause shown and with leave of Court. All witnesses shall be instructed to be available for testimony as of the first day of trial scheduled herein, should the Court so require.

9. Trial

The trial will be held on **November 18, 2019** at **9:00 a.m.** at the United States District Courthouse, Courtroom 7C, Kansas City, Missouri. A pre-trial teleconference with the parties will be held on **November 13, 2019** at **10:00 a.m.**

IT IS SO ORDERED.

Date: July 29, 2019
Kansas City, Missouri

S/ FERNANDO J. GAITAN, JR.
Fernando J. Gaitan, Jr.
United States District Judge